IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No. 116 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF WEALTH TAX - Applicant(s)
Versus
PRINCE ASHOK RAJE GAEKWAD - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
NOTICE NOT RECD BACK for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE M.R. SHAH

Date : 18/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. The Income-tax Appellate Tribunal has referred the following question to this Court for its answer.

> “Whether, on the facts and in the circumstances of the cases, and in law, the Tribunal is right in holding that the assessee being assessed under the status of HUF is entitled to the benefit of sec.7[4] of the Act in respect of the property known as “Dhariya Prasad”?”

1. Ms. Mona Bhatt, learned counsel for the applicant. Office report shows that the notice issued to the respondent assessee is not received back. As we have already decided WTR No.93/95, which was a matter between the same parties for earlier assessment years against the interest of the Revenue after placing our reliance on 261 ITR 54, we do not think that notices are required to be awaited or issued afresh. In view of the judgment passed in WTR 93/95, we answer the question against the interest of Revenue. The Reference stands disposed of.

[R.S. GARG, J.]

[M.R. SHAH, J.]

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